

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF MOUNTAIN WATER	)	
DISTRICT OF PIKE COUNTY, KENTUCKY,	)	
FOR A CERTIFICATE OF PUBLIC	)	CASE NO. 97-112
CONVENIENCE AND NECESSITY TO	)	
CONSTRUCT, FINANCE AND INCREASE	)	
RATES PURSUANT TO KRS 278.023	)	

O R D E R

Mountain Water District ("Mountain") has filed an application for a Certificate of Public Convenience and Necessity to construct a \$1,869,600 sewer project, for approval of its plan of financing for this project, and for adjustments to its water and sewer service rates. This project will provide service to 180 additional sewer customers and will connect 147 existing sewer customers. Project funding includes a \$176,000 bond issue to be purchased pursuant to an agreement with the U. S. Department of Agriculture's Rural Development ("RD") formerly known as the Rural Economic and Community Development Service, an Economic Development Administration Grant of \$814,600, an Appalachian Regional Commission Grant of \$375,000, a Kentucky Infrastructure Authority ("KIA") Loan of \$484,800, and an applicant contribution of \$19,200. The RD bonds will be financed for a 40 year period at an interest rate not to exceed 4.5 percent per annum and the KIA loan is to be financed at 1.3 percent per annum.

Mountain's application was made pursuant to KRS 278.023, which requires the Commission to accept agreements between water utilities and the U. S. Department of Agriculture and to issue the necessary orders to implement the terms of such agreements

within 30 days of satisfactory completion of the minimum filing requirements. KRS 278.023 provides that the statute applies to any construction project which is financed by the federal agency, and "it is declared to be the policy of the Commonwealth that such agreements shall be accepted by the Public Service Commission . . . ."

Mountain is proposing to construct a new sewer collection system and establish new sewer rates which will apply to both existing and new sewer users. Nowhere in the engineering report submitted with the application do we find any mention of improvements or extensions to Mountain's water distribution system. However, Mountain is requesting, and RD has included in its letter of conditions, not only the sewer rate increase, but a 34 percent increase in its general water rates for existing water users as well.<sup>1</sup>

Mountain's water distribution system will not be affected by this project. The proposed increase in water rates is not necessary to support the sewer project, which will be covered by the proposed increase in sewer rates. As federal financing is involved, the requirements of KRS 278.023 apply to the sewer construction project as well as to Mountain's method of financing it, but do not apply to Mountain's requested increase in general water rates.

Such a proposal presents a question of first impression for the Commission. May a utility, under the guise of a federally financed construction project and the terms of KRS 278.023, obtain automatic approval of rates which are not necessary to pay for

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<sup>1</sup> Mountain is proposing a change in its rate design for water users as well. Mountain's current customers receive 2,000 gallons for a minimum bill of \$14.25 and each additional 1,000 gallons for \$3.35. Under the rates proposed herein, the minimum bill which includes only 1,000 gallons goes to \$13.00 and usage per 1,000 gallons is set at \$4.90.

the costs associated with the proposed construction, and in fact are not involved with the proposed construction in any way?<sup>2</sup> While Mountain has presented a proposed construction project to the Commission, as well as its plan of financing for that construction, the project involves only an expansion of Mountain's sewer system not its water distribution system. Due to the fact that federal financing is involved, the requirements of KRS 278.023 certainly apply to the sewer construction project as well as to Mountain's method of financing it. However, no construction involving Mountain's water distribution system is included in the project which has been presented to the Commission. As the proposed increase in water rates is not related to the proposed construction project, and does not involve any other construction project financed in whole or in part under the terms of an agreement between Mountain and a federal agency, the provisions of KRS 278.023 do not apply.

Mountain's proposed increase in its general water service rates falls under the Commission's exclusive jurisdiction to set rates for utilities. The exception created by KRS 278.023 is narrow and will be strictly construed. Had the legislature intended that a water utility could completely remove its rates from our jurisdiction merely by including such rates in a filing of this type, it would have removed such utilities from our rate jurisdiction altogether. It did not.

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<sup>2</sup> Mountain's general water rates are currently under investigation by this Commission in Case No. 96-126, An Investigation into the Operations and Management of Mountain Water District. The prospect of evading Commission review of certain rates by including a request for an increase in a filing under KRS 278.023 may be attractive to utilities. However, unless necessary to support a federally financed construction project, rates will only be adjusted pursuant to KRS 278.190.

IT IS THEREFORE ORDERED that:

1. Mountain is hereby granted a Certificate of Public Convenience and Necessity for the proposed sewer construction project.

2. Mountain's proposed plan of financing with RD is accepted.

3. Mountain is authorized to issue bonds not to exceed \$1,869,600.

4. Mountain shall file a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

5. The sewer rates set out in Appendix A, which is attached hereto and incorporated herein, are the rates approved for sewer service rendered on and after the date of this Order.

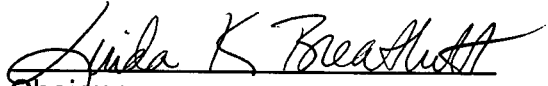
6. The water rates proposed by Mountain are denied.

7. Mountain shall submit its revised tariff setting out the rates in Appendix A within 30 days of the date of this Order.


Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

Done at Frankfort, Kentucky, this 11th day of March, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 97-112 DATED MARCH 11, 1997

The following rates and charges are prescribed for the customers in the area served by Mountain Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

#### SEWER RATES

##### Monthly Rates

First 2,000 gallons	\$ 12.00 Minimum Bill
Over 2,000 gallons	6.00 per 1,000 gallons

##### Connection Fee

5/8 x 3/4 Inch	\$700
All additional size connections - Actual Cost	